

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

CRAIG BALEZ

v.

JO ANNE B. BARNHART,  
Commissioner of Social Security

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§

CIVIL ACTION NO. G-04-665

**ORDER**

Before the Court is Plaintiff Craig Balez' s Motion for Attorney' s Fees under the Equal Access to Justice Act (" EAJA"). 28 U.S.C. § 2412(d). That statute provides, in part, that:

A Court shall award to a prevailing party [in certain suits against the United States]  
. . . fees and other expenses . . . unless the Court finds that the position of the  
United States was substantially justified.

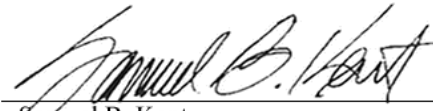
28 U.S.C. § 2412(d)(1)(A). Attorneys who successfully represent persons seeking benefits under the Social Security Act fall within the attorney' s fee provisions of the EAJA. *Herron v. Bowen*, 788 F.2d 1127 (5<sup>th</sup> Cir. 1986).

Plaintiff has submitted an itemized list of services showing that 20.20 hours were expended on this case. The EAJA provides that attorney' s fees shall be limited to \$125 an hour " unless the court determines that an increase in the cost of living . . . justifies a higher fee." 28 U.S.C. § 22412(d)(2)(A). Plaintiff claims the hourly rate should be set at \$152.50 for the work he performed in this case. Plaintiff bases the hourly rate on the Department of Labor' s Consumer Price Index (" CPI"), as it is calculated for the Houston/Galveston area. He therefore seeks attorney' s fees in the amount of \$3,080.50. Plaintiff claims no costs or expenses.

Plaintiff filed this Motion on December 14, 2006. The Commissioner has not filed any response, nor has she requested an extension of time to do so.

For all these reasons, the Court finds that Plaintiff's Motion for Attorney's Fees (Instrument No. 21) is **GRANTED** in the amount of \$3080.50.

**DONE** in Galveston, Texas, this 26<sup>th</sup> day of January, 2007.

  
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Samuel B. Kent  
United States District Judge